

DC

U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

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ADMINISTRATIVE APPEALS OFFICE

425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

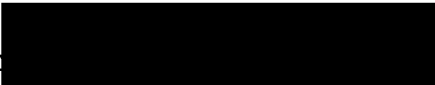
MAR 28 2003

Date:

File: WAC 02 042 54295

Office: CALIFORNIA SERVICE CENTER

IN RE: Petitioner:
Beneficiary:



Petition: Petition for Alien Fiance(e) Pursuant to Section 101(a)(15)(K) of the Immigration and Nationality Act,
8 U.S.C. § 1101(a)(15)(K)

ON BEHALF OF PETITIONER: SELF-REPRESENTED

PUBLIC COPY

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Bureau of Citizenship and Immigration Services (Bureau) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, California Service Center, and is now on appeal before the Administrative Appeals Office (AAO). The appeal will be sustained. The decision of the director will be withdrawn and the application will be approved.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of Jamaica, as the fiancé(e) of a United States citizen pursuant to section 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(K).

The director denied the petition after determining that the petitioner had failed to submit credible documentary evidence to establish that she and the beneficiary had personally met within two years before the date of filing the petition, as required by section 214(d) of the Act.

Section 101(a)(15)(K) of the Act defines "fiancé(e)" as:

An alien who is the fiancée or fiancé of a citizen of the United States and who seeks to enter the United States solely to conclude a valid marriage with the petitioner within ninety days after entry. . . .

Section 214(d) of the Act, 8 U.S.C. § 1184(d), states in pertinent part that a fiancé(e) petition:

shall be approved only after satisfactory evidence is submitted by the petitioner to establish that the parties have previously met in person within two years before the date of filing the petition, have a bona fide intention to marry, and are legally able and actually willing to conclude a valid marriage in the United States within a period of ninety days after the alien's arrival.

The petitioner filed the Petition for Alien Fiance(e) (Form I-129F) with the Service on November 15, 2001. Therefore, the petitioner and the beneficiary were required to have met during the period that began on November 15, 1999 and ended on November 15, 2001.

In response to Question #19 on the Form I-129F, the petitioner indicated that she and the beneficiary had met. In a response to the director's request for additional documentation and evidence concerning the parties' last meeting, the petitioner failed to submit all of the documentation requested or evidence regarding when and where the parties had last met. Accordingly, the director denied the petition for failure to comply with the regulatory requirements.

On appeal, the petitioner submits the required Form G-325, Biographic Information sheet, for the beneficiary and evidence that

she traveled to Jamaica on two occasions during the required time period, from August 9, 2000 through August 25, 2000 and from August 9, 2001 through August 27, 2001.

In the instant case, the petitioner has provided documentation required in connection with the filing of the petition as well as credible documentary evidence to establish that she personally met the beneficiary in Jamaica within the two-year period immediately prior to the filing date of the petition. Therefore, the appeal will be sustained. The decision of the director will be withdrawn and the application will be approved.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has met that burden.

ORDER: The decision of the director is withdrawn. The application is approved.